

LJl02 Handout

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What Does the Bill Do?

- Draft LClj02 bans the intentional non-consensual dissemination of sexually explicit images/videos. This is commonly known as “nonconsensual porn”.
- Nonconsensual porn = abuse involving the distribution of nude/sexually explicit photos/videos of an individual without that individual’s permission.
- Provides both criminal and civil penalties for this offense.
- Exceptions when dissemination is:
 - made with the consent of the person depicted;
 - made by law enforcement as part of an investigation;
 - from images of voluntary exposure in public or commercial settings;
 - for the purpose of, or in connection with, the reporting of unlawful conduct; or
 - for medical purposes.
- Penalties mirror those for sexual assault under Montana law, MCA § 45-5-502.
- Terms such as “visual medium”, “intimate parts”, and “sexual conduct” defined in Montana statute.

Why Should This Behavior Be Illegal?

- It is sexual exploitation.
- It is a growing problem due to the popularity of social media and other technology, including sexting, and the rising prominence of revenge porn websites.
- Perpetrators commit this offense to harass or demean, but also to make money, to extort, for their own gratification, and for a multitude of other reasons.
- Posts often compromise the safety of victims and their families by including names, addresses, e-mail addresses and other information.

Other States Have Criminalized This Behavior:

As of November 2015, 26 U.S. states have enacted laws in response to this behavior. For the most part, these laws passed between 2013 – 2015. In six states, the crime carries felony penalties. A federal law is also being considered.

Other Considerations:

- Greater penalties for other motives (financial profit or harassment, for example).
- Add a provision to allow for distribution of images as a reason to obtain a protective order, for assistance in removing images/stopping the upload of images.

Other Resources:

1. *Drafting an Effective “Revenge Porn” Law: A Guide for Legislators*, Mary Ann Franks (Nov. 2015). Available at www.endrevengeporn.org.
2. Cyber Civil Rights Initiative, www.cybercivilrights.org.